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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/155,003 09/14/98 ENJUANES SANCHEZ L ACY-33261

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HM22/0622

EXAMINER

PARKIN, J

ART UNIT	PAPER NUMBER
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1648

DATE MAILED:

06/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/155,003

Applicant(s)
Sanchez, L. E., et al.

Examiner
Jeffrey S. Parkin, Ph.D.

Art Unit
1648



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 Sep 1998
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-64 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 46-64 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Unity of Invention

35 U.S.C. § 371

1. This application was filed under 35 U.S.C. § 371 and is subject to unity of invention practice pursuant to 35 U.S.C. § 121 and 372. This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive
5 concept under PCT Rule 13.1. In accordance with 37 C.F.R. § 1.499, applicants are required, in response to this action, to elect a single invention to which the claims must be restricted.

10 a. Group I, claims 46-48, drawn to a recombinant **expression vector** comprising a **defective viral genome** encoding a selected **antigen**.

15 b. Group II, claims 46, 47, and 49, drawn to a recombinant **expression vector** comprising a **defective viral genome** encoding a selected **antibody**.

20 c. Group III, claims 50-52, 55, and 56, drawn to a recombinant expression system comprising an **expression vector** encoding a selected **antigen** and **helper virus**.

d. Group IV, claims 50, 53, 54, 55, and 56, drawn to a recombinant expression system comprising an **expression vector** encoding a selected **antibody** and **helper virus**.

25 e. Group V, claims 57 and 64, drawn to a vaccine comprising an **expression vector** encoding a selected **antibody**, a **helper virus**, and **pharmaceutically acceptable excipient**.

30 f. Group ~~VI~~ claims 57-59, drawn to **porcine vaccine** comprising an **expression vector** encoding a porcine pathogenic immunogen, a helper virus, and a pharmaceutically acceptable excipient.

35 g. Group VII, claims 57, 60, and 61, drawn to a **canine vaccine** comprising an **expression vector** encoding a canine pathogenic immunogen, a helper virus, and a pharmaceutically acceptable excipient.

h. Group VIII, claims 57, 61, and 62, drawn to a **feline vaccine** comprising an **expression vector** encoding a feline pathogenic

immunogen, a helper virus, and a pharmaceutically acceptable excipient.

5 The inventions listed as Groups I-VIII do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The claimed invention fails to make a contribution over the prior art (i.e., see the ISA Chapter I search report and Chapter II preliminary examination report).

10
Species Election

2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack Unity of Invention because they are not so linked as to form a single inventive concept under PCT Rule 13.1. **Applicant is required, in response to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable.** The response must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election. The species are as follows:

- 25 a. Claim 59, drawn to multiple **porcine pathogens** (e.g., *Actinobacillus suis*, *Actinobacillus pleuropneumoniae*, etc.).
- b. Claim 61, drawn to multiple **canine pathogens** (e.g., canine herpesviruses, canine adenoviruses, etc.).
- 30 c. Claim 63, drawn to multiple **feline pathogens** (e.g., feline calicivirus, feline immunodeficiency virus, etc.).

3. The species listed above do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: each of the identified species is

directed toward a structurally and functionally different immunogen thereby necessitating separate searches for each immunogen.

4. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Correspondence

5. The Art Unit location of your application in the Patent and Trademark Office has changed. To facilitate the correlation of related papers and documents for this application, all future correspondence should be directed to **art unit 1648**.

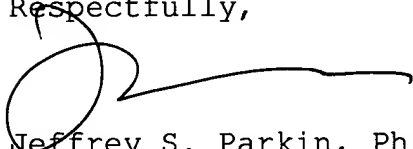
6. Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate their expeditious processing and entry.

7. Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-2227. The examiner can normally be reached Monday through Thursday from 8:30 AM to 6:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisors, James Housel or Laurie Scheiner, can be reached at (703) 308-4027 or (703) 308-1122, respectively. Any

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inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

Respectfully,



Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1648

19 June, 2001